

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA, <i>ex rel.</i> ,)	
TERRELL W. FOX,)	
)	
Plaintiffs,)	CIVIL CASE NO. 3:12-cv-00766
)	JUDGE TRAUGER
v.)	MAGISTRATE JUDGE BROWN
)	
)	
MCKESSON CORPORATION, d/b/a)	UNDER SEAL
MCKESSON SPECIALTY DISTRIBUTION, LLC,)	
)	
Defendant.)	

JOINT STIPULATION OF DISMISSAL

Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and the qui tam provisions of the False Claims Act, 31 U.S.C. § 3730, et seq., and in accordance with the terms and conditions of the Settlement Agreement fully executed on August 1, 2014, among the United States, Relator Terrell W. Fox (“Relator”), and McKesson Corporation, McKesson Corporation d/b/a McKesson Specialty Distribution LLC, and McKesson Specialty Distribution LLC (collectively “McKesson”), the United States and Relator hereby stipulate, through their undersigned counsel, to the entry of an order: (1) dismissing this action with prejudice as to the Relator; and (2) dismissing this action with prejudice to the United States with respect to the “Covered Conduct” defined in the parties’ Settlement Agreement, and without prejudice to the United States as to all other conduct; and (3) providing that the Court retain jurisdiction over any disputes that may arise regarding the Settlement Agreement and any disputes related to Relator’s claim to a share of the proceeds of the Settlement Agreement under 31 USC § 3730(d).

The “Covered Conduct” in the Settlement Agreement between the parties is defined as follows:

The United States contends that it has certain civil claims against McKesson for engaging in the following conduct during the period from February 5, 2007, through approximately November 6, 2007 (hereinafter referred to as the “Covered Conduct”). The United States alleges that McKesson failed to comply with the “cold chain” shipping and handling requirements of the September 12, 2006, Distribution Contract between the Centers for Disease Control and Prevention (“CDC”) and McKesson Specialty Distribution LLC, No. 200-2006-18246 (as amended from time to time thereafter). The contract related to the Vaccine for Children program, which provides federally purchased vaccine to children under 18 meeting certain requirements. Under this contract, McKesson provided distribution services, receiving the vaccines from the manufacturers and then distributing the vaccine to health care providers. The contract set out various requirements for the shipments, including requiring temperature monitors to be included in each box shipped. The United States further alleges that if electronic monitors were used, the contract required that the monitors be set to detect when the air temperature of a shipment reached 2° C and below, or 8° C and above, but that McKesson failed to comply with the contract and set the monitors to alert outside of that range. McKesson submitted invoices to the CDC for the cost of those shipping and handling services. The United States contends that, as a result of the foregoing Covered Conduct, McKesson knowingly submitted false claims to the CDC for shipping and handling services under the Distribution Contract.

Relator, on behalf of himself, his heirs, successors, attorneys, agents, and assigns, stipulates that the Settlement Agreement referenced above and the terms and conditions described therein are fair, adequate, and reasonable under all the circumstances of this case, that he will not challenge the settlement pursuant to 31 U.S.C. § 3730(c)(2)(B), and that he expressly

waives the opportunity for a hearing on any objection to the settlement under 31 U.S.C. § 3730(c)(2)(B).

The parties respectfully request that the Court enter an order in the form of the attached proposed order.

Respectfully submitted,

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Authority Conferred by 28 U.S.C. § 515

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